

### REMARKS

Reconsideration of this application, as amended, is respectfully requested.

This application has been reviewed in light of the Office Action dated September 19, 2002. Claims 1-24 are currently pending in the application. Claims 1-5, 9-17, and 21-24 have been rejected, and Claims 6-8 and 18-20 have been objected to, but still have been found to contain allowable subject matter.

In the previous Office Action dated March 29, 2002, the Examiner objected to the drawings of the application, asserting that Figures 1-2 should be labeled as -- Prior Art --. It is gratefully acknowledged that the examiner has approved the proposed changes included in our prior response of July 29, 2002. Accordingly, corrected Figures 1 and 2, including the approved legend "Prior Art", are attached under CORRECTED DRAWINGS.

In the Office Action, the Examiner has rejected Claims 1, 3-5, 9-13, 15-17, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over applicant's admitted prior art in view of *Scott et al.* (U.S. 6,154,486) and *Hashimoto* (U.S. 5,375,252), and Claims 2 and 14 under 35 U.S.C. § 103(a) as being unpatentable over applicant's admitted prior art in view of *Scott et al.*, and further in view of *Nakamura et al.* (U.S. 6,314,090). The Examiner still finds Claims 6-8 and 18-20 objected to, but states that they would be allowed if re-written in independent form to include all the limitations of the base claim and any intervening claims.

As stated above, the Examiner has rejected Claims 1 and 13, the independent claims of the present application, under 35 U.S.C. § 103(a) as being unpatentable over applicant's admitted prior art in view of *Scott* and *Hashimoto*. Specifically, the Examiner asserts that applicant's admitted prior art in view of *Scott* discloses all the elements of Claims 1 and 13 except for intermittently

transmitting a preamble signal during a preamble interval prior to a transmission interval of a reverse access channel message, which is allegedly disclosed in *Hashimoto*.

*Hashimoto* discloses transmitting a selective call signal, which includes a shortened preamble signal and a code word, after a predetermined transmission time delay has elapsed. The shortened preamble of the selective call signal has a length equal to or longer than a sum of a maximum transmission time delay and a predetermined minimum length of the preamble signal. It is respectfully submitted that this process cited by the Examiner is not an equivalent of "intermittently transmitting a preamble" as disclosed in Claims 1 and 13 of the present, nor does *Hashimoto* disclose "intermittently transmitting a preamble" in any other portion. Therefore, it is respectfully requested that the Examiner withdraw the rejections of Claims 1 and 13.

It is respectfully submitted that Claims 1 and 13 are in condition for allowance. Without conceding the patentability per se of dependent Claims 2-12 and 14-24, they are likewise believed to be allowable by virtue of their dependence on Claims 1 and 13, respectively. Accordingly, reconsideration and withdrawal of the rejections and objections of dependent Claims 2-12 and 14-24 are respectfully requested.

Further, in the unlikely event that the Examiner does not allow Claims 1-12 and 13-24, it is respectfully submitted that the Examiner withdraws the Finality of the Rejection. As stated in our phone interview with the Examiner on December 16, 2002, "[u]nder present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." See MPEP 706.07(a). Our previous amendments did not change the scope of the claims in any manner and were done merely to clarify the intent of the claims. The previous amendment to Claims 1 and 13 was as follows:

1. (Amended) A mobile station device comprising:  
a preamble generator for generating a preamble signal [intermittently] to be transmitted

intermittently during a preamble interval prior to a transmission interval of a reverse access channel message; and

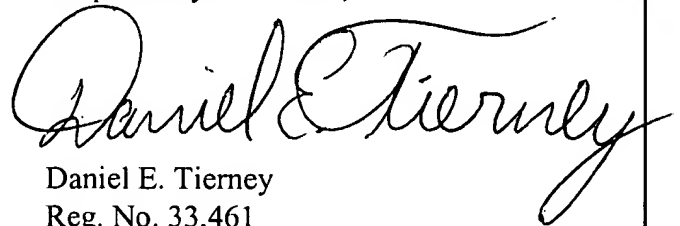
a transmitter for spreading and modulating the preamble signal received from the preamble generator and transmitting it to a base station.

13. (Amended) A transmitting method at a mobile station comprising the steps of:  
generating a preamble signal [intermittently] to be transmitted intermittently during a preamble interval prior to a transmission interval of a reverse access channel message; and  
spreading and modulating the preamble signal received from the preamble generator and transmitting it to a base station.

Therefore, it is respectfully submitted that this new ground of rejection (*Hashimoto*) was not necessitated due to the previous amendments to Claims 1 and 13, and that the Examiner withdraw the Finality of the rejection.

In view of the preceding amendments and remarks, it is respectfully submitted that all pending claims, namely Claims 1-24 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



Daniel E. Tierney  
Reg. No. 33,461  
Attorney for Applicant

**DILWORTH & BARRESE, LLP**  
333 Earle Ovington Blvd.  
Uniondale, New York 11553  
Tel: (516) 228-8484  
Fax: (516) 228-8516  
DET/DMO/lah